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INSIGHT

Energy Tax Provisions in the Tax Cuts and Jobs Act (H.R. 1)

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The Tax Cuts and Jobs Act (H.R. 1) proposes a number of changes to energy-related tax provisions. These changes are summarized in **Table 1**. H.R. 1 includes a broad restructuring of the federal income tax system. A full analysis of the consequences of this proposal for the energy sector, or various subsets of the energy sector, is beyond the scope of this Insight.

Table 1. Energy Tax Provisions in H.R. 1

	Current Law	H.R. 1	10-Year Change in Revenues ($ billions)
Credit for new qualified plug-in electric vehicles	Credit up to $7,500 for plug-in electric vehicles. Credit phases out at 200,000 vehicles per manufacturer.	Credit repealed.	$0.2
Section 45 energy production tax credit (PTC)	Wind facilities beginning construction before 2017 qualify for full credit amount (2.4¢ per kilowatt hour (kWh) in 2017, after being adjusted for inflation). Credit available for 10 years of qualified production. Wind facilities beginning construction in 2017 may qualify for 80% of full credit amount. Wind facilities beginning construction in 2018 and 2019 may qualify for 60% or 40% of the full credit amount, respectively. PTC for non-wind technologies expired in 2016.	Caps the PTC at 1.5¢ per kWh (removes the inflation adjustment factor) for facilities beginning construction after enactment. Facilities are treated as having begun construction only if there is continuous construction.	$12.3

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	Current Law	H.R. 1	10-Year Change in Revenues ($ billions)
Section 48 energy investment tax credit (ITC)	Permanent 10% credit for solar energy and geothermal property. Credit for solar energy property temporarily increased to 30% through 2019, decreasing to 26% in 2020, and 22% in 2021. Deadlines for solar are commence construction. A placed-in-service requirement of January 1, 2024, also applies to increased credit amounts. Temporary 30% credit for fiber optic solar, fuel cell property, and small wind expired in 2016. 10% credit for microturbines, combined heat and power (CHP), and geothermal heat pumps also expired in 2016.	Permanent 10% credit for solar energy and geothermal repealed for property starting construction after 2027. Credit extended for fiber optic solar, fuel cells, small wind, microturbines, CHP, and geothermal heat pumps. Credit rates reduced to 26% in 2020 and 22% in 2021 for 30% credit property. Facilities are treated as having begun construction only if there is continuous construction.	-$1.2
Credit for residential energy-efficient property	Solar electric and solar water heating property qualifies for a 30% tax credit through 2019. Credit is reduced to 26% in 2020 and 22% in 2021. No credit for property placed in service after 2021. Temporary 30% credit for geothermal heat pumps, small wind energy property, and fuel cell power plants expired in 2016.	Credit extended for geothermal heat pumps, small wind energy property, and fuel cell power plants, with phase outs following the schedule under current law applied to solar.	-$1.1
Enhanced oil recovery (EOR) credit	Credit of 15% for EOR costs. Credit is phased out when the reference price for domestic crude oil exceeds $28 per barrel (adjusted for inflation after 1991). The credit was not phased out in 2016 and 2017 due to low oil prices.	Credit repealed.	$0.2
Oil and gas marginal wells production credit	$3-per-barrel credit (adjusted for inflation) for the domestic production of crude oil and a $0.50-per-1,000-cubic-feet (mcf) credit (adjusted for inflation) for the domestic production of qualified natural gas. The credit phases out between reference prices of $15 and $18 per barrel of oil and $1.67 and $2.00 per mcf of natural gas (adjusted for inflation after 2005). The credit is currently phased out for crude oil (and has been every year since enactment). The credit is available for natural gas, starting in 2016, at a rate of $0.14 per mcf.	Credit repealed.	no revenue effect

	Current Law	H.R. 1	10-Year Change in Revenues ($ billions)
Credit for production from advanced nuclear power facilities	Credit of 1.8 cents per kWh for electricity produced at a qualifying advanced nuclear power facility for eight years beginning when the facility is placed in service. The credit provides for a maximum 6,000 megawatts of national capacity, to be allocated by the Secretary of the Treasury. Qualified facilities must be placed in service before January 1, 2021. To qualify, a taxpayer must have submitted an application before February 1, 2014, and must have received an allocation from the national capacity. As of 2017, Treasury has allocated all 6,000 megawatts of national capacity.	Beginning after January 1, 2021, the Secretary of the Treasury would re-allocate any national capacity that remains unused, first to qualifying facilities that did not receive an allocation equal to their full capacity and then to qualified facilities in the order they are placed in service (without regard to the placed-in-service deadline). Public entities would be allowed to forgo credits, transferring such credits instead to an eligible project partner.	-$0.4
Expenditures for energy-efficient heating and air-conditioning property	Businesses may immediately expense up to $500,000 of the cost of "Section 179 property."	Modifies the definition of Section 179 property to include qualified energy-efficient heating and air-conditioning property placed in service after November 2, 2017.	n.a.[a]

Sources: CRS analysis of H.R. 1 and Joint Committee on Taxation.

Note:

a. The expansion of Section 179 to include energy-efficient heating and air-conditioning property was not estimated as a separate item.

In addition to the provisions noted in **Table 1**, other changes (or the absence of changes) in H.R. 1 could have implications for the energy sector. Notably:

- Most of the temporary energy-related tax provisions that expired at the end of 2016 would not be extended (the exceptions are the business energy investment tax credit (ITC) and the credit for residential energy-efficient property, as summarized below).
- As noted above, several permanent energy tax credits would be repealed. Other energy-related provisions, such as the ability to issue tax-exempt bonds for certain energy-related private activities, would also be repealed. The proposal would *not* repeal certain other energy tax expenditures, such as provisions allowing percentage instead of cost depletion for certain oil, gas, and coal activities, and exceptions that allow income from certain energy-related activities to qualify for publicly traded partnership status.
- Broader provisions in H.R. 1 will likely affect businesses and investors operating in the energy sector. For example, businesses in the energy sector would be subject to reduced corporate and pass-through rates. Generally, equipment placed in service through 2022 could be fully expensed (with certain energy-related equipment having a 2023 placed-in-service deadline). Certain larger businesses with net interest expenses in excess of 30% of adjusted taxable income may not be able to deduct net interest expenses in the current year.

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